

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT

HARLEY L. BREER, JR.,
Plaintiff,

v.

Docket No. 2:12-CV-53

MICHELLE MEDOR, BRIAN REED,
CHARLES CROSS, JAMES HONSINGER, and
STEVE MARANVILLE,
Defendants.

ORDER

The Report and Recommendation of the United States Magistrate Judge was filed July 29, 2013. After careful review of the file and the Magistrate Judge's Report and Recommendation, no objections having been filed by any party, this Court ADOPTS the Magistrate Judge's recommendations in full for the reasons stated in the Report.

The defendants' motion to dismiss (Doc. 24) is GRANTED with respect to: (1) all claims against Defendant Maranville; (2) Breer's causes of action under the PREA and Vermont Criminal statutes; and (3) Breer's Eighth Amendment claim against Defendants Reed and Honsinger. Otherwise, the motion to dismiss is DENIED.

Pursuant to Fed. R. App. P. 22(b), a certificate of appealability is DENIED because the petitioner has failed to make a substantial showing of denial of a federal right. Furthermore, the petitioner's grounds for relief do not present issues which are debatable among jurists of reasons, which

could have been resolved differently, or which deserve further proceedings. See e.g., Flieger v. Delo, 16 F.3rd 878, 882-83 (8th Cir.) cert. denied, 513 U.S. 946 (1994); Sawyer v. Collins, 986 F.2d 1493, 1497 (5th cir.), cert. denied, 508 U.S. 933 (1993).

Furthermore, it is certified that any appeal of this matter would not be taken in good faith, pursuant to 28 U.S.C. § 1915(a)(3).

Dated at Burlington, in the District of Vermont, this
16th day of August, 2013

/s/ William K. Sessions III
William K. Sessions III
District Court Judge